

EXHIBIT 53

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF MASSACHUSETTS, *et al.*

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH, *et al.*

Defendants.

No. 1:25-cv-10338

DECLARATION OF JASON A WILDER

I, Jason A. Wilder, hereby declare:

1. I am a resident of the State of Arizona. Since 2021, I have been employed by Northern Arizona University (NAU) as Vice President for Research. In addition to my current role, I have a Ph.D. in Biology and over 23 years of academic experience.
2. As Vice President for Research at NAU, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records provided to me by NAU employees, and believe that information to be true. If called as a witness, I could and would testify competently to the matters set forth below.
3. I am providing this declaration to explain certain impacts of National Institutes of Health (NIH) Notice Number NOT-OD-25-068, *Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates* (Notice), which purports to immediately reduce facilities and administrative costs payments (also known as indirect costs) to 15%.
4. NAU's talented researchers are always aspiring to be leaders in their fields. They are teacher-scholars who engage in impactful research, scholarship, and creative activities to

provide transformative learning opportunities, engage our diverse students and communities, advance disciplinary and interdisciplinary knowledge, and contribute to solving problems of regional, national, and global relevance.

5. Federal funds are an important source of NAU's support.
6. NAU has a Negotiated Indirect Cost Rate Agreement with NIH. Ex. A.
7. The indirect cost rate in NAU's Negotiated Indirect Cost Rate Agreement is 52.5% for on-campus research.
8. In federal fiscal year 2024, NAU managed 14 awards from NIH, totaling over \$12.5 million. Of that amount, approximately \$9.3 million were for direct costs and approximately \$3.2 million were for indirect costs. Because certain direct cost categories are exempted from calculating indirect costs, NAU had a blended indirect cost rate of approximately 34%.
9. Recovering costs of research is essential to maintaining NAU's operations. NAU incurs significant costs to perform research sponsored by federal agencies, which otherwise would not occur. Indirect cost rates allow NAU to recover some of the costs incurred in conducting research that are shared across a number of projects and university functions. Among these are the maintenance of key research facilities and instrumentation that are shared resources at NAU that empower cutting-edge research, including our Biosafety Level 3 Research Laboratory, our Research Greenhouse, Animal Care Facility, High Performance Computing Cluster, and our Genetics Core & Imaging Facility. Indirect cost revenues also play a role in ensuring research safety and compliance, including by funding our Human Research Protection Program, Institutional Animal Care & Use Committee, Chemical and Biological Safety Programs, and our Export Control Program.

Additionally, indirect cost funds help pay expenses for laboratory utilities, library research services, research administration services, and service contracts on shared scientific instruments.

10. The NIH Notice will likely cause NAU to face a loss of more than a million dollars annually in indirect cost recovery. Such a loss will have an immediate and deleterious impact on the success of research projects and the University's ability to maintain the level of staffing and infrastructure critical to support those projects.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 18th day of February, 2025, in Flagstaff, Arizona.



Jason A. Wilder
Vice President for Research
Northern Arizona University

EXHIBIT A

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN: 74-2579628
 ORGANIZATION:
 Northern Arizona University
 P.O. Box 4069
 Flagstaff, AZ 86011-4070

Date: 06/29/2023
 FILING REF.: The preceding
 agreement was dated
 03/16/2017

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES:		FIXED	FINAL	PROV. (PROVISIONAL)	PRED. (PREDETERMINED)
TYPE	EFFECTIVE PERIOD		RATE(%)	LOCATION	APPLICABLE TO
	FROM	TO			
PRED.	07/01/2021	06/30/2023	52.00	On-Campus	Organized Research
PRED.	07/01/2023	06/30/2027	52.50	On-Campus	Organized Research
PRED.	07/01/2021	06/30/2027	26.00	Off-Campus	Organized Research
PRED.	07/01/2021	06/30/2027	51.20	On-Campus	Instruction
PRED.	07/01/2021	06/30/2027	26.00	Off-Campus	Instruction
PRED.	07/01/2021	06/30/2023	30.90	On-Campus	Other Sponsored Activities
PRED.	07/01/2023	06/30/2027	29.40	On-Campus	Other Sponsored Activities
PRED.	07/01/2021	06/30/2023	26.00	Off-Campus	Other Sponsored Activities
PRED.	07/01/2023	06/30/2027	23.70	Off-Campus	Other Sponsored Activities
PROV.	07/01/2027	Until Amended			Use same rates and conditions as those cited for fiscal year ending Jun 30, 2027

*BASE

Modified total direct costs, consisting of all salaries and wages, fringe benefits, materials, supplies, services, travel and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Modified total direct costs shall exclude equipment, capital expenditures, charges for patient care, student tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000.

ORGANIZATION: Northern Arizona University
AGREEMENT DATE: 06/29/2023

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

This organization charges the actual cost of each fringe benefit direct to Federal projects. However, it uses a fringe benefit rate which is applied to salaries and wages in budgeting fringe benefit costs under project proposals. The following fringe benefits are treated as direct costs:

FICA, WORKERS COMPENSATION, HEALTH/DENTAL INSURANCE, BASIC LIFE INSURANCE, UNEMPLOYMENT INSURANCE, LONG-TERM DISABILITY, PENSION PLAN, AND RETIREE ACCUMULATED SICK LEAVE.

TREATMENT OF PAID ABSENCES:

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims are not made for the cost of these paid absences.

OFF-CAMPUS DEFINITION AND APPLICATION

The off-campus rate is applicable to those projects conducted in facilities not owned or leased by the University. However, if the project is conducted in leased space and lease costs are directly charged to the project, then the off-campus rate must be used. A project is considered off-campus if more than 50% of its salaries and wages are incurred at an off-campus facility. If a project is determined to be off-campus, it shall be considered wholly off-campus. Separate on and off-campus rates will not be used for a single project.

DEFINITION OF EQUIPMENT

Equipment is defined as tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

NEXT PROPOSAL DUE DATE

A proposal based on actual costs for fiscal year ending 6/30/26 will be due no later than 12/31/26.

ORGANIZATION: Northern Arizona University
 AGREEMENT DATE: 06/29/2023

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted: such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Title 2 of the Code of Federal Regulations, Part 200 (2 CFR 200), and should be applied to grants, contracts and other agreements covered by 2 CFR 200, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

E. OTHER:

If any Federal contract, grant or other agreement is reimbursing facilities and administrative costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of facilities and administrative costs allocable to these programs.

BY THE INSTITUTION:

Northern Arizona University

(INSTITUTION)

Bjorn Flugstad

(SIGNATURE)

BJORN FLUGSTAD

(NAME)

Sr Vice President, CFO

(TITLE)

7/6/2023

(DATE)

ON BEHALF OF THE GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(AGENCY)

Arif M. Karim -S

Digitally signed by Arif M. Karim -S
 Date: 2023.07.05 09:39:36 -05'00'

(SIGNATURE)

Arif Karim

(NAME)

Director, Cost Allocation Services

(TITLE)

06/29/2023

(DATE)

HHS REPRESENTATIVE: Jeanette Lu

TELEPHONE: (415) 437-7820